

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

RAY COX, as the Personal	)	
Representative of the Estate of	)	
JAMES HINSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL CASE NO. 1:23-cv-57-ECM
	)	(WO)
JASON SMOAK, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

Now pending before the Court is the Defendants’ partial motion to dismiss (doc. 17), filed on February 21, 2023. In their motion, the Defendants assert that the Plaintiff’s claims pursuant to 42 U.S.C. § 1983 and Alabama state law claims of medical negligence which occurred before January 23, 2021 are barred by the statute of limitations, and should be dismissed. The Defendants also seek dismissal of the fictitious defendants. (*Id.*).

On June 5, 2023, the Plaintiff filed a response to the partial motion to dismiss indicating that he “does not oppose the granting of the defendants’ motion.” (Doc. 31). Accordingly, upon consideration of the motion, and for good cause, it is

ORDERED that the motion to dismiss is GRANTED and the Plaintiff’s claims pursuant to 42 U.S.C. § 1983 and Alabama state law claims of medical negligence which occurred before January 23, 2021, are DISMISSED with prejudice. It is further

ORDERED that the fictitious defendants are DISMISSED without prejudice.

Claims occurring on or after January 23, 2021, remain pending.

DONE this 12th day of July, 2023.

/s/ Emily C. Marks  
EMILY C. MARKS  
CHIEF UNITED STATES DISTRICT JUDGE